

Message Text

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INFO OCT-01 ARA-01 ISO-00 L-01 /005 R

66011

DRAFTED BY IO/CMD:ELBRUCE

APPROVED BY IO:TLYNCH

L:MBFELDMAN

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FM SECSTATE WASHDC

TO AMEMBASSY BOGOTA IMMEDIATE

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FOR ASSISTANT SECRETARY LEWIS

FOLLOWING REPEAT GENEVA 5975 ACTION SECSTATE INFO EC BRUSSELS

OECD PARIS USUN NEW YORK 26 JUL 76

QUOTE

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E.O. 11652: N/A

TAGS: ECOSOC EGEN

SUBJECT: 61ST ECOSOC: US PROPOSAL ON ILLICIT PAYMENTS

REF: A. GENEVA 5931 B. GENEVA 5929 C. STATE 183522

1. ON JULY 26 USDEL CONTINUED ITS LOBBYING EFFORTS ON BEHALF OF OUR PROPOSAL ON ILLICIT PAYMENTS. AS INDICATED REFTEL A, MYERSON MET WITH AMBASSADOR DA COSTA (BRAZIL) TO COMPARE NOTES AND PARTICULARLY TO URGE THAT BRAZILIAN DEL PARTICIPATE IN AN INFORMAL DRAFTING EXERCISE LATER IN DAY. IN ADDITION, WE INFORMALLY DISTRIBUTED TO INTERESTED DELS THE REVISED DRAFT AS CONTAINED IN REFTELS B AND C. INITIAL REACTIONS BY VARIOUS G-77 DELS TO REVISED TEXT WERE IN GENERAL FAVORABLE, AND THEY RECOGNIZED THAT WE ARE ATTEMPTING TO MEET SOME OF THE SPECIFIC PROBLEMS RAISED BY THEM. HOWEVER, BASED ON PRIOR CONVERSATIONS AS WELL
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AS REPORTS FROM CAPITALS, IT WAS CLEAR THAT EVEN THIS REVISED

US RESOLUTION -- AS IT STOOD -- COULD NOT CARRY THE DAY.

ACCORDINGLY, USDEL SUBSEQUENTLY HAD AN INFORMAL AND AD REFERENDUM SESSION WITH DELEGATES OF IRAN, EGYPT AND BRAZIL TO DISCUSS POSSIBLE ADDITIONAL CHANGES. THE REFERENDUM TEXT COMING OUT OF THESE DISCUSSIONS IS TRANSMITTED BELOW. BRAZIL HAS SUBSEQUENTLY TOLD US AFTER A PRELIMINARY CHECK WITH GOB THAT WITH THESE CHANGES IT COULD PROBABLY SUPPORT THE RESOLUTION.

3. MAJOR CHANGES IN THE TEXT AS FOLLOWS:

(A) TITLE NEUTRALIZED TO READ SIMPLY "ILLICIT PAYMENTS IN INTERNATIONAL COMMERCIAL TRANSACTIONS" BUT FULL WORDING OF PROPOSED AGREEMENT MAINTAINED IN THE BODY OF THE RESOLUTION.

(B) MANDATE SET FORTH IN OP PARA 1(A) NOW CALLS ON "AD HOC" COMMITTEE TO CONDUCT AN EXAMINATION OF THE PROBLEMS OF ILLICIT PAYMENTS AND TO STUDY CONTENTS AND SCOPE OF A DRAFT AGREEMENT WITH A VIEW TO ELABORATING AN AGREEMENT BY THE MIDDLE OF 1977.

(C) TITLE OF PROPOSED AGREEMENT NOW CONTAINS THE PHRASE "COMMERCIAL TRANSACTIONS" INSTEAD OF "TRADE AND INVESTMENT."

(D) THE PHRASE "IF POSSIBLE" INSERTED IN OP PARA 3 (B) WITH REFERENCE TO FORWARDING OF FINAL TEXT OF AGREEMENT TO GA.

4. OBVIOUSLY, A NUMBER OF KEY DELS REMAIN TO BE HEARD FROM. IRAN PLANS TO RAISE OUR PROPOSAL AT A MEETING OF THE G-77 SCHEDULED FOR 9:30 A.M. ON JULY 27. WE WILL NEED TO KNOW BY THEN WHETHER THE AD REFERENDUM DRAFT IS ACCEPTABLE TO THE DEPT. PLEASE ADVISE SOONEST.

5. THE TNC ITEM (REPORT OF THE TNC COMMISSION) WILL PROBABLY COME UP IN THE ECONOMIC COMMITTEE ON JULY 26. WE WILL TRY TO DELAY UNTIL SECOND HALF OF WEEK THE DEADLINE FOR FORMAL TABLING OF DRAFT RESOLUTIONS.

6. FOLLOWING IS AD REFERENDUM TEXT:

BEGIN TEXT
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ILLICIT PAYMENTS IN INTERNATIONAL
COMMERCIAL TRANSACTIONS

RECALLING GENERAL ASSEMBLY RESOLUTION 3514 (XXX) WHICH,
INTER ALIA, CONDEMNED ALL CORRUPT PRACTICES, INCLUDING BRIBERY,
BY TRANSNATIONAL AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND
OTHERS INVOLVED, IN VIOLATION OF THE LAWS AND REGULATIONS OF

HOST COUNTRIES, AND CALLED UPON ALL GOVERNMENTS TO EXCHANGE INFORMATION AND FOR HOME GOVERNMENTS TO COOPERATE WITH HOST GOVERNMENTS TO PREVENT CORRUPT PRACTICES, INCLUDING BRIBERY;

NOTING THE DECISION OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS AT ITS 2ND SESSION TO FORWARD TO THE ECONOMIC AND SOCIAL COUNCIL A PROPOSAL FOR AN INTERNATIONAL AGREEMENT TO ESTABLISH CERTAIN STANDARDS AND PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS WITH THE AIM OF ELIMINATING CORRUPT PRACTICES IN THESE AREAS.

NOTING FURTHER THE COMMISSION'S RECOMMENDATION THAT THE COUNCIL CONSIDER THE MATTER OF CORRUPT PRACTICES ON A PRIORITY BASIS AND TAKE APPROPRIATE ACTION AT ITS SIXTY-FIRST SESSION,

AFFIRMING THAT CONSIDERATION AND ACTION BY THE COUNCIL OF THE MATTER OF CORRUPT PRACTICES SHOULD IN NO WAY INTERFERE WITH OR DELAY PRIORITY ACTION BY THE COMMISSION ON TRANSNATIONAL CORPORATIONS IN DEVELOPING A CODE OF CONDUCT,

1. DECIDES

(A) TO ESTABLISH A HIGH LEVEL INTERGOVERNMENTAL AD HOC COMMITTEE OF EXPERTS TO CONDUCT AND EXAMINATION OF THE PROBLEM OF ILLICIT PAYMENTS AND TO STUDY THE CONTENTS AND SCOPE OF A DRAFT AGREEMENT ON MEASURES TO COMBAT ILLICIT PAYMENTS TO GOVERNMENT OFFICIALS IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS WITH A VIEW TO ELABORATING BY THE MIDDLE OF 1977 A PRELIMINARY DRAFT OF SUCH AN AGREEMENT.

(B) THAT THE AD HOC COMMITTEE SHALL BE COMPOSED OF 18 MEMBERS ELECTED BY THE ECONOMIC AND SOCIAL COUNCIL ON A BROAD AND REPRESENTATIVE GEOGRAPHICAL BASIS,

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(C) THAT THE AD HOC COMMITTEE SHALL MEET IN 1976 AND AS NECESSARY IN 1977, THE SESSIONS TO BE OF SUFFICIENT DURATION TO PERMIT COMPLETION OF ITS TASK,

(D) THAT THE CENTRE ON TRANSNATIONAL CORPORATIONS SHALL PROVIDE THE AD HOC COMMITTEE WITH SUCH SUPPORT AND ASSISTANCE AS THE AD HOC COMMITTEE MAY REQUIRE TO COMPLETE ITS TASK.

2. REQUESTS OTHER UNITED NATIONS AGENCIES AND BODIES, ESPECIALLY UNCITRAL, TO RENDER SUCH ASSISTANCE TO THE AD HOC COMMITTEE AS IT MAY REQUEST.

3. DECIDES FURTHER

(A) THAT THE AD HOC COMMITTEE SHOULD SUBMIT A REPORT TO THE

63RD SESSION OF THE COUNCIL CONTAINING THE RESULTS OF THE
AD HOC COMMITTEE'S WORK PURSUANT TO PARAGRAPH
1 ABOVE.

(B) TO REVIEW THE AFORMENTIONED REPORT AT ITS 63RD SESSION
AND TO FORWARD IF POSSIBLE, A FINAL TEXT OF THE
AGREEMENT TO THE GENERAL ASSEMBLY WITH THE RECOMMENDATION
THAT THE ASSEMBLY AT ITS 32ND SESSION TAKE ALL DECISIONS
AND ACTIONS NECESSARY FOR THE OPENING FOR SIGNATURE OF
A CONVENTION ON MEASURES TO COMBAT ILLICIT PAYMENTS TO
GOVERNMENT OFFICIALS IN CONNECTION WITH INTERNATIONAL
COMMERCIAL TRANSACTIONS.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BRIBERY, LOBBYING, PROPOSALS (BID), RESOLUTIONS, MULTINATIONAL CORPORATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 27 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE185397
Document Source: CORE
Document Unique ID: 00
Drafter: ELBRUCE
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760289-0546
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760717/aaaaaonl.tel
Line Count: 185
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 GENEVA 5931, 76 GENEVA 5929, 76 STATE 183522
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 06 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <06 APR 2004 by BoyleJA>; APPROVED <04 AUG 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: 61ST ECOSOC: US PROPOSAL ON ILLICIT PAYMENTS
TAGS: EGEN, EINV, US, ECOSOC
To: BOGOTA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006